



Agenda Date: 12/20/00  
Agenda Item: Late Starter D

## **STATE OF NEW JERSEY**

### ***Board of Public Utilities***

*Two Gateway Center  
Newark, NJ 07102*

#### CABLE TELEVISION

IN THE MATTER OF THE APPLICATION OF )  
TCI TKR OF THE GULF PLAINS, INC. )  
TCI ATLANTIC, INC. AND COMCAST )  
CABLEVISION OF THE SOUTH, INC. FOR )  
APPROVAL OF TRANSFER OF ASSETS AND )  
TRANSFER OF CERTIFICATES OF APPROVAL )

#### ORDER OF APPROVAL

DOCKET NO. CM00080585

(SERVICE LIST ATTACHED)

BY THE BOARD:

On August 30, 2000, TCI TKR of the Gulf Plains, Inc. ("TCI/Gulf Plains"), a Delaware corporation, TCI Atlantic, Inc. ("TCI Atlantic"), a Colorado corporation, and Comcast Cablevision Corporation of the South, Inc. ("Comcast"), also a Colorado corporation, (the "Petitioners"), petitioned the Board of Public Utilities ("Board") pursuant to the provisions of N.J.A.C. 14:17-6.10 and 6.8 for approval of pending transactions ("Transactions") resulting in the acquisition of TCI/Gulf Plains' and TCI Atlantic's cable television systems by Comcast.

TCI/Gulf Plains owns and operates a cable television system (the "Avalon System") serving several municipalities in Cape May County, New Jersey.<sup>1</sup>

TCI Atlantic owns and operates a cable television system (the "Long Beach Island System") serving several municipalities in Ocean County, New Jersey.<sup>2</sup> TCI Atlantic also serves two other cable television systems in New Jersey, its Gloucester System and its Maple Shade System. TCI/Gulf Plains and TCI Atlantic are each indirect wholly owned subsidiaries of AT&T Corp. ("AT&T"), a New York corporation, headquartered in New York.

AT&T is a substantial participant in the communications industry, on a national and international basis. It is the largest provider of domestic and international long distance telephone service in the United States, and operates in more than 250 countries and territories around the world. In addition, AT&T's other communications services include local telephone, wireless, Internet access and cable television services.<sup>3</sup>

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<sup>1</sup> TCI/Gulf Plains is authorized to serve the following municipalities: Avalon Borough, Middle Township, Sea Isle City, Stone Harbor Borough and Upper Township.

<sup>2</sup> TCI Atlantic is authorized to serve the following municipalities: Barnegat Light Borough, Beach Haven Borough, Harvey Cedars Borough, Long Beach Township, Ship Bottom Borough and Surf City Borough.

<sup>3</sup> References herein to AT&T where indicated by the context, shall be understood to mean AT&T and/or its cable television subsidiaries.

Comcast is a wholly owned subsidiary of Comcast Cable Communications, Inc. ("Comcast Cable"), a Delaware corporation, and which in turn is a wholly owned subsidiary of Comcast Corporation. Comcast Corporation, headquartered at 1500 Market Street, Philadelphia, PA 19102-2148, is the third largest Multiple Systems Owned ("MSO") in the United States, serving, through its various subsidiaries, approximately 7.5 million subscribers in 22 states.<sup>4</sup> Nearly half of Comcast's cable subscribers are concentrated in the States of New Jersey, Pennsylvania, Delaware, Maryland and Virginia. Comcast Cable owns the stock of certain other subsidiaries<sup>5</sup> which, pursuant to N.J.S.A. 48:5A-1 et seq., own and operate cable television systems in New Jersey.

Petitioners advised the Board that as a result of geographic and other considerations, AT&T and Comcast Corporation each have determined that certain systems to be acquired from the other would more rationally fit within its existing regional clusters of cable television systems. Accordingly, AT&T and Comcast Corporation entered into a letter agreement dated May 1999 ("Letter Agreement"), pursuant to which the parties will exchange (or cause their various subsidiaries to exchange) certain cable television systems. In connection with the Letter Agreement, AT&T and Comcast Corporation subsequently entered into a certain definitive Asset Exchange Agreement ("Exchange Agreement") dated as of August 11, 2000, pursuant to which the parties will exchange or cause their subsidiaries to exchange certain cable television systems. Simultaneously with the filing of the Petition in this matter, Petitioners also filed with the Board FCC Form 394, setting forth pertinent information concerning the Transactions. Attached to the Form 394 is a copy of the Exchange Agreement. Schedule 2.1.1 to the Exchange Agreement specifies those cable television systems presently owned by Comcast Corporation, which are to be transferred to AT&T as well as those cable television systems presently owned by AT&T, including the Avalon System and the LBI System (together, the "Avalon and Long Beach Island Systems"), which are to be transferred to Comcast Corporation. Under the Exchange Agreement, in the event that the aggregate agreed-upon values ("AAAV's") (as defined in the Exchange Agreement) of the systems to be exchanged are not equal, a cash payment, equal to the difference, shall be made by the party transferring the systems with the lower valuation.

Petitioners further advised that the proposed exchange of cable systems will enable both AT&T and Comcast Corporation to better and more efficiently operate their respective cable systems. AT&T and Comcast, through subsidiaries, each own and operate existing cable systems in the region of the cable systems to be acquired by each. Thus, Petitioners assert that the proposed transfers will result in a more economic management of resources by each party.

Petitioners also assert that the proposed transaction will result in benefits to the subscribers of both Comcast and AT&T, stemming from improved efficiencies and economies of operation. As

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<sup>4</sup> References herein to Comcast Corporation, where indicated by the context, shall be understood to mean Comcast Corporation and/or its cable television subsidiaries.

<sup>5</sup> Said subsidiaries are Comcast Cablevision of Northwest New Jersey, Inc., Comcast Cablevision of New Jersey, Inc., Comcast Cablevision of the Plainfields, Inc., Comcast Cablevision of Monmouth County, Inc., Comcast Cablevision of Central New Jersey, Inc., Comcast Cablevision of Ocean County, Inc., Comcast Cablevision of Burlington County, Inc., Comcast Cablevision of Gloucester County, Inc., Comcast Cablevision of Jersey City, Inc., Comcast Cablevision of the Meadowlands, Inc., Comcast Cablevision of Mercer County, Inc., Comcast Cablevision of Southeast Pennsylvania Inc. (corporation name changed from Suburban Cable TV Co., Inc.) and Comcast Cablevision of South Jersey, Inc. (corporation name changed from Lenfest Atlantic, Inc.). In addition, Comcast, directly or indirectly, owns all of the partnership interests of Comcast Cablevision of Garden State Cable, L.P. (collectively the "Comcast Subsidiaries").

noted above, various Comcast subsidiaries now provide cable television services to New Jersey subscribers through their respective cable systems. As the Adelphia properties in New Jersey are nearby and contiguous to existing Comcast systems in New Jersey, Comcast believes that their combination will aid in the development of greater regional efficiencies, which, in turn, will foster growth and enhancements for their subscribers. Thus, Petitioners contend that the policies underlying the legislative preference for regional systems, as expressed in N.J.S.A. 48:5A-17(b), will be advanced by and through the proposed transaction.

In addition to the Avalon and Long Beach Island Systems, AT&T plans on transferring the Gloucester and Maple Shade Systems to Comcast Corporation. Those systems will be conveyed under a separate agreement anticipated by the parties to follow shortly as per the Petition for the sale and transfer before the Board of the Wildwood, Maple Shade and Gloucester Systems to Comcast.

Following submission of the petition, the Petitioners provided written responses to written requests for additional information regarding the impact of the Transaction on AT&T's New Jersey cable television customers. In addition, Comcast provided information as to its ability to continue to provide safe, adequate and proper service subsequent to the Transactions.

After a review of this matter, the Board HEREBY FINDS the Transactions to be made are in accordance with law, are in the public interest and approving the purposes thereof, HEREBY AUTHORIZES the Transactions, including the transfer to Comcast of the Certificates of Approval to construct, own, operate and maintain the AT&T Systems. The Board also HEREBY AUTHORIZES the sale to Comcast of the assets of the AT&T Systems.

This Order is subject to the following requirements:

- 1) This Order shall not affect or in any way limit the exercise of the authority of the Board or the Office of Cable Television or the State of New Jersey in any future petition or in any proceeding regarding rates, cost of service, franchises, service, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioners.
- 2) This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of tangible or intangible assets now owned or hereinafter to be owned by Petitioners.
- 3) This Order shall not be construed as affecting pending rate proceedings involving the Petitioners.
- 4) The Petitioners shall notify the Board, in writing, within five (5) days of the date on which each of the transactions are consummated.
- 5) Consummation of the above referenced transactions must take place no later than ninety (90) days from the date of this Order, unless otherwise extended by the Board.

- 6) Petitioners shall file a Certification with the Board within thirty (30) days of the closing attesting to the lack of material deviation in the executed closing documents or final terms from those terms and conditions described herein and/or submitted to the Board with the Petition. Any such material deviation in the executed closing documents shall render this Order voidable by the Board.
- 7) Petitioners shall file journal entries with the Board to record the transactions approved herein with forty-five (45) days of final closing.
- 8) In addition to the State assessment, pursuant to N.J.S.A. 48:5A-32, and municipal franchise fees, pursuant to N.J.S.A. 48:5A-30, due and owing by Comcast on systems it presently owns and operates in New Jersey, Comcast shall be liable for all State assessment and municipal franchise fees due and owing for the preceding calendar year relating to those subsequently acquired New Jersey systems it owns as of the statutory payment dates.
- 9) AT&T shall provide, within 60 days of the date of this Order, revised Office of Cable Television Forms CATV-1 and CATV-2 which shall reflect gross revenue, as defined by the applicable statutes, for the periods January 1, 2000 through December 31, 2000, for the franchises transferred.
- 10) AT&T shall provide, within 45 days of the date of closing, revised Office of Cable Television Forms CATV-1 and CATV-2, which shall reflect gross revenue, as defined by the applicable statutes, for the periods January 1, 2001 through closing, for the franchises transferred.
- 11) All franchise obligations, commitments and agreements shall continue in force in all respects under Comcast ownership.
- 12) Comcast shall file, within 45 days of the closing of the Transactions, a revised tariff for cable television service reflecting the new ownership and listing all charges as required by the Board, the Office of Cable Television or the Federal Communications Commission.
- 13) All of the obligations imposed upon AT&T by the Certificates of Approval issued by the Board for the municipalities served by it shall be assumed by Comcast.
- 14) All representations and Commitments made by AT&T to the municipalities serviced by the AT&T Systems are fully enforceable as if set forth at length herein.
- 15) Approval of the transfer of assets and Certificates of Approval approved herein shall not constitute automatic approval of any business contract referenced in the Agreement or supporting documents, if Board approval, pursuant to N.J.S.A. 48:5A-1 et seq., would otherwise be required.

- 16) Material deviation in the executed closing documents from the terms and conditions filed with the Board shall render this Order of Approval voidable.

All parties to the Transactions must comply with the New Jersey Cable Television Act and applicable sections of the New Jersey Administrative Code.

DATED: December 21, 2000

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

HERBERT H. TATE  
PRESIDENT

(signed)

CARMEN J. ARMENTI  
COMMISSIONER

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)

FRANCES L. SMITH  
SECRETARY

**IN THE MATTER OF**  
**TCI/TKR OF THE GULF PLAINS, INC. TCI ATLANTIC, INC. and COMCAST CABLEVISION**  
**OF THE SOUTH**  
**TRANSFER OF ASSETS and CERTIFICATES OF APPROVAL**  
**DOCKET NO. CM00080585**

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